

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

DERRICK EUGENE KIRTMAN,	)	
	)	
Plaintiff,	)	
vs.	)	NO. CIV-12-504-HE
	)	
UNITED STATES OF AMERICA, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff Derrick Eugene Kirtman, a federal prisoner who is represented by counsel, filed this Bivens<sup>1</sup> action alleging he was denied necessary medical treatment, subjected to excessive force and retaliated against while incarcerated at a federal correctional institution. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Magistrate Gary M. Purcell, who recommends that plaintiff's federal claims be dismissed without prejudice for failure to state a claim for relief under Bivens and on the basis of sovereign immunity. He also recommends that the court decline to exercise supplemental jurisdiction over plaintiff's state claims.

Plaintiff has objected to the Report and Recommendation, but does not address the pleading deficiencies identified by the magistrate judge. He does, though, request leave to file an amended complaint. Plaintiff's claims will be dismissed, but he will be allowed to amend.

Accordingly, the court adopts Magistrate Purcell's Report and Recommendation and


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<sup>1</sup>Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971).

dismisses plaintiff's claims without prejudice. Plaintiff is granted leave to file an amended complaint by **June 28, 2012**.

**IT IS SO ORDERED.**

Dated this 14th day of June, 2012.

  
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JOE HEATON  
UNITED STATES DISTRICT JUDGE